IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.1634 OF 2006

Thakaji Amanaji Rokade & Anr. .... Petitioners
Vs.
Late Smt. Godabai Amanaji
Rokade & Ors. .... Respondents

Shri V.Z. Kankaria for the Petitioners.

None for the Respondents.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: APRIL 10, 2006

P.C:

Heard. The petitioners challenge the order dated 23-1-2006 passed by the lower Appellate Court dismissing the application for condonation of delay of 1705 days in filing the appeal. The clear finding arrived at by the lower Appellate Court is that there is no sufficient explanation on record about the cause of the delay. Indeed, the application merely discloses that the petitioner No.2 had been residing in Mumbai and therefore was not aware of certain proceedings before the trial Court. Undisputedly, the records disclose the proper service of notice before the disposal of the suit. Being so, merely because the petitioner No.2 had been residing in Mumbai or that the petitioner No.1 is of old age by itself cannot be a justification to condone the delay of 1705 days. In the absence of

satisfactory explanation for such a long delay, the lower Appellate Court having rejected the application for the condonation of delay, it is apparent that the Court has not acted illegally or in improper exercise of jurisdiction. This is not a fit case for exercise of discretion in favour of the petitioners in the absence of satisfactory explanation for such a long delay. Hence, no case is made out for interference in writ jurisdiction. The petition, therefore, is rejected.

(R.M.S. Khandeparkar, J.)

sjs/410wp1634